

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

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CLERK-ALBUQUERQUE

NGX COMPANY,

Plaintiff

v.

No. CIV-05-01120 WJ/RLP

G.B. PETROLEUM SERVICES, LLC,

Defendant

**THE PARTIES JOINT MOTION TO ENLARGE DEADLINES  
IN THE INITIAL SCHEDULING ORDER AND VACATE  
AND RESCHEDULE INITIAL SCHEDULING CONFERENCE**

The Parties move to enlarge deadlines in the Initial Scheduling Order (Doc # 9), filed January 24, 2006, for the Rule 26(f) conference, for submitting the Provisional Discovery Plan and Initial Pretrial Report to the Court, and to vacate and reschedule the initial scheduling conference set for March 8, 2006. The Parties state the following in support of their Motion:

1. The Court set an initial scheduling conference for March 8, 2006. (See Initial Sched. Order, at 2.) The Court further ordered that the parties meet and confer pursuant to Fed. R. Civ. P. 26(f) twenty-one (21) days in advance of the scheduling conference. Thus the meet-and-confer deadline is February 15, 2006. The Court also requires submission of the Provisional Discovery Plan and Initial Pretrial Report to the Court by March 1, 2006. (See id., at 2.)

2. Counsel for NGX and Defendant had scheduled a Rule 26(f) conference for February 9, 2006. See January 24, 2006 letter from Bryan Davis to Lucas Williams, attached as Ex. A. On February 6, 2006, counsel for Defendant, Lucas Williams, called counsel for NGX to

tell him that Mr. Williams' law firm had a conflict of interest in representing Defendant and therefore requested consent to withdrawal as counsel for Defendant. Counsel for NGX indicated his consent to withdrawal via email the next day. See February 7, 2006 email from Bryan J. Davis to Lucas Williams, attached as Ex. B.

3. On February 15, 2006, counsel for NGX Company, Bryan Davis, spoke to John Cooney at the Modrall, Sperling law firm regarding his intention to substitute as counsel for Defendant, which NGX Company does not oppose. Defendant is filing concurrently herewith an unopposed motion for withdrawal of counsel, which includes the Modrall, Sperling Law firm's entry of appearance on behalf of Defendant.

4. Mr. Cooney only recently received the file concerning this case, will be out of the state from noon February 16 until the morning of February 21, and is unable to get up to speed on the case sufficiently to conduct a Rule 26(f) conference before February 22, 2006. Mr. Cooney will be out of the state from March 20 through March 31, 2006, but will be able to confer with counsel for Plaintiff between March 3 and March 17, 2006.

5. Counsel for NGX will be out of state for a CLE and vacation from February 22 until March 2, 2006, and therefore unable to conduct a Rule 26(f) conference before March 3, 2006.

6. Given the substitution of new counsel for Defendant, counsel's unavailability for a Rule 26(f) conference until March 3, 2006, and the resultant inability for them to submit the Provisional Discovery Plan and Initial Pretrial Report to the Court by March 1, 2006 as set forth in the Initial Scheduling Order, there is good cause to enlarge the time for the parties to meet-

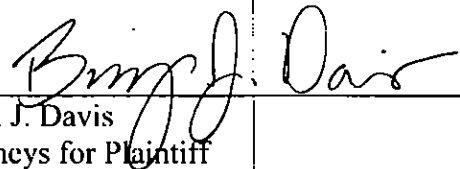
and-confer, to submit the Provisional Discovery Plan and Initial Pretrial Report to the Court, and for the Court to vacate and reschedule the March 8, 2006 scheduling conference.

WHEREFORE, the Parties respectfully requests that the Court: (1) enlarge the deadline for the parties to meet-and-confer pursuant to Rule 26(f) until March 10, 2006, (2) enlarge the deadline for submission of the Provisional Discovery Plan and Initial Pretrial Report until March 17, 2006, and vacate and reschedule the initial scheduling conference set for March 8, 2006 until as soon after March 31, 2006 as is convenient for the Court.

Respectfully submitted,

RODEY, DICKASON, SLOAN,  
AKIN & ROBB, P.A.

By

  
Bryan J. Davis  
Attorneys for Plaintiff  
P. O. Box 1888  
Albuquerque, NM 87103-1888  
(505) 765-5900

MODRALL, SPERLING, ROEHL,  
HARRIS & SISK, P.A.

By Electronically approved 2/15/06

John R. Cooney  
Paul T. Halajian  
Attorneys for Defendant  
P. O. Box 2168  
Albuquerque, NM 87103  
(505) 848-1800

**RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.**

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BRYAN J. DAVIS

January 24, 2006

Lucas M. Williams, Esq.  
Hinkle, Hensley, Shanor & Martin, L.L.P.  
P.O. Box 10  
Roswell, NM 88202-0010

Re: NGX Company v. G.B. Petroleum Services, LLC  
No. CIV-05-01120 WJ/RLP

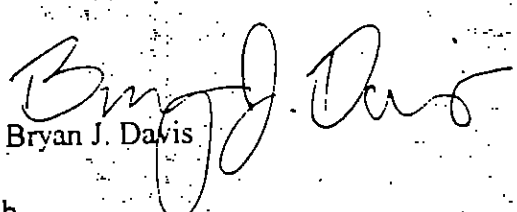
Dear Mr. William:

This is to confirm our Rule 26(f) conference at your offices on February 9, 2006 at 10:00 a.m. I look forward to seeing you then.

Sincerely,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By:

  
Bryan J. Davis

BJD/ssb

EXHIBIT

A

## Bryan Davis

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**From:** Bryan Davis  
**Sent:** Tuesday, February 07, 2006 3:17 PM  
**To:** 'lwilliams@hinklelawfirm.com'  
**Subject:** RE: NGX v. G.B. Petro. Svcs: Amended Complaint

Lucas:

To confirm our telephone conversation today, you can note my approval on a motion to withdraw and substitute counsel for Defendant. I understand that our meet-and-confer on Thursday is off as well. As I indicated, I will go ahead and file the opposed motion to amend the Complaint unless I hear from substituted counsel that he or she concurs on the proposed amendments. I am going to serve the Motion on you to the extent that the Court has not allowed you to withdraw by the time I file it, which I anticipate will be Friday, in order to preserve my client's right to amend under the current scheduling order.

Yours,

Bryan J. Davis, Esq.  
Rodey, Dickason, Sloan, Akin & Robb, P.C.  
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Albuquerque, NM 87102  
(505) 765-5900 (switchboard)  
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(505) 768-7395 (fax)  
www.rodey.com

-----Original Message-----

**From:** Bryan Davis  
**Sent:** Monday, February 06, 2006 5:50 PM  
**To:** 'lwilliams@hinklelawfirm.com'  
**Subject:** RE: NGX v. G.B. Petro. Svcs: Amended Complaint

Lucas:

Given our conversation today, I am going to assume G.B. Petroleum Services, LLC's opposition to a Motion to Amend unless I obtain your signature (or Defendant's new counsel's) on the Notice of Consent to File First Amended Complaint by our scheduled meet-and-confer on Thursday. I am also going to note in the Motion that you concurred orally on a few occasions (particularly our phone calls on Jan. 23rd and last week when you indicated that you thought you had signed and sent the Notice to me already), simply to cover all the bases, not to impugn you personally. I understand the situation that you are in, but I have to protect my client's interests.

I want to get the First Amended Complaint on file before any withdrawal of counsel is effective so that I do not have to ask the Court to extend the deadline of March 3, 2006 for amending the pleadings as set forth in the Initial Scheduling Order. I am otherwise amenable to consenting to modification of the Initial Scheduling Order to allow for short extensions on the meet-and-confer and getting the PDP and IPTR to the Court if necessary for successor counsel to get up to speed. The lien, in particular, is bothering my client greatly, thus NGX wants to get into discovery and get this litigation moving as soon as possible.

Please let me know the status of your withdrawal, if any, as soon as possible. I am planning on the meet-and-confer on Thursday unless I hear otherwise from you.

Yours,

Bryan J. Davis, Esq.  
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